

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BOBBI L. POSTELWAITE,

Plaintiff,

v.

Civil Action No. 2:09-CV-75

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

**REPORT AND RECOMMENDATION THAT COMPLAINT BE DISMISSED
WITHOUT PREJUDICE AND THIS CASE STRICKEN FROM THE COURT'S
DOCKET**

Plaintiff filed her Complaint in this action on June 30, 2009.¹ Commissioner filed his answer on September 14, 2009.² On November 13, 2009, this Court issued a Notice to Plaintiff regarding the need to file her brief in support of her claim for relief within thirty days.³

Pursuant to Local Rule of General Procedure 86.02(c), Plaintiff was ordered to file a brief in support by December 16, 2009. Plaintiff has yet to file any brief in support of her claim for relief. Plaintiff's brief is now nearly one week late. Therefore, the Court recommends that this action be **DISMISSED** without prejudice and the case be stricken from the Court's docket.

Any party who appears *pro se* and any counsel of record, as applicable, may, within fourteen (14) days of the date of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which

¹ Doc. No. 1.

² Doc. No. 8.

³ Doc. No. 11.

objection is made, and the basis for such objection. A copy of such objections should be submitted to the District Court Judge of Record. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.

DATED: December 21, 2009

/s/ *James E. Seibert*

JAMES E. SEIBERT

UNITED STATES MAGISTRATE JUDGE